



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,562	10/17/2001	Florence Chatzigianis	M-11729 US	7865

34036 7590 04/25/2005

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA, CA 95054

EXAMINER

ZHEN, WEI Y

ART UNIT PAPER NUMBER

2191

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,562

Applicant(s)

CHATZIGIANIS ET AL.

Examiner

Wei Zhen

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed on 11/8/2004.
2. Claims 1-24, 26-29 are pending.
3. Claim 25 is canceled.
4. The previous rejections to claims 1-29 under 35 U.S.C. 112, second paragraph are hereby withdrawn in view of applicant's amendment.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-24, 27 are directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Specifically, Claims 1-24 recites steps of a method for releasing a product under development, these various steps (i.e. "storing in a memory...identifying one of said versions...") are steps that can be done by a person as a mental step or using pencil or paper which are directed merely to an abstract idea without a practical application and are not tangible. In addition, claim 27 recites "a signal embedded in a carrier medium" which is directed to non-statutory subject matter because it is not being tangibly embodied in a manner so as to be executable.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24, 26-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims recites “time selected from periodically recurring times in future” (i.e. claim 1 line 5, line 7; claim 3 line 2, etc). Time or a specific moment can occur only once (i.e. there is ONLY one “4/15/2005, 2:32 pm”). It is not understood why there is “periodically recurring time in future”. For purpose of applying prior art rejection, this limitation is not given any patentable weight.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 7-8, 10-16, 21-24, 26-29 are rejected under 35 U.S.C. 102(a) as being anticipated by Reha et al, U.S. Patent No. 6,282,709.

As per claim 1, Reha discloses

storing in memory a first association between a first version of a component of the product and a first time selected from periodically recurring times in future (col. 4 lines 35-42, lines 49-58)

storing in memory a second association between a second version of the component and a second time selected from periodically recurring times in future (col. 4 lines 35-42, lines 49-58)

identifying one of said versions as a release version (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58) by using said associations and depending on whichever one of said times occurred most recently in the past (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 2, the rejection of claim 1 is incorporated and further Reha discloses

The release version is different from the second version if the second time is yet to occur (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58).

As per claim 3, the rejection of claim 1 is incorporated and further Reha discloses

The release version is the first version if the first time occur most recently in the past from among periodically recurring times (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 4, the rejection of claim 1 is incorporated and further Reha discloses on passage of said first time...among the periodically recurring time (col. 4 lines 35-42, lines 49-58).

As per claim 5, the rejection of claim 1 is incorporated and further Reha discloses wherein the association is stored in a record of a database (col. 4 lines 35-42, lines 49-58).

As per claim 7, the rejection of claim 1 is incorporated and further Reha discloses storing the address of each version (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67, col. 8 lines 5-42).

As per claim 8, Reha discloses copying...other components (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67, col. 8 lines 5-42).

As per claim 10, Reha discloses storing a label...in a version control system (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 11, Reha discloses storing an indicator...first time (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 12, Reha discloses storing for the first version...to be included (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 13, Reha discloses the release...milestone time (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 14, Reha discloses said first time is one...prior to said milestone time (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 15, Reha discloses receiving said first time...via a graphical user interface (Fig. 4 and col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 16, Reha discloses storing...first version (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58).

As per claim 21, Reha discloses after the second time...release version (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 22, Reha discloses storing a third...with the first version, storing a fourth...with the second version (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 23, Reha discloses said storing...second time (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

As per claim 24, Reha disclose said storing...on as an exception (col. 3 lines 55-67, col. 4 lines 35-42, lines 49-58, col. 5 lines 4-10. lines 57-67).

Claims 26-27 are rejected for the reason set forth in the rejection of claim 1.

Claim 28 is rejected for the reasons set forth in the rejection of claims 1, 3, 5, 7.

Claim 29 is rejected for the reasons set forth in the rejection of claims 6, 9, 10-12.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 9, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reha et al, U.S. Patent No. 6,282,709.

As per claims 6, 17, Reha does not explicitly disclose storing an identity of a person responsible for development of each version/receiving . However, Official Notice is taken that storing/receiving an identify of a person responsible for development of software was well known in the art. Therefore, it would have been obvious to incorporate the teaching of the well

known knowledge into Reha because it provides a complete record of software development history that can be made available for later use, such as modification or consultation purpose.

As per claim 9, Reha does not explicitly disclose storing an identity of a bug that has been fixed in each version. However, Official Notice is taken that storing an identity of a bug that has been fixed in each version was well known in the art. Therefore, it would have been obvious to incorporate the teaching of the well known knowledge into Reha because it provides a complete record of software development history that can be made available for later use, such as modification or consultation purpose.

As per claims 18, 19, 20, Reha does not explicitly disclose said periodically recurring time occur once a week, each time in the periodically recurring times occurs on a predetermined day selected from a group of consisting of Tuesday, Wednesday, and Thursday or each time in the periodically recurring time occurs on Wednesday. Official Notice is taken that selecting a convenient time to comparing versions of software was well known in the art. Therefore, it would have been obvious to incorporate the teaching of the well known knowledge into Reha because one would want to perform this function at a convenient time.

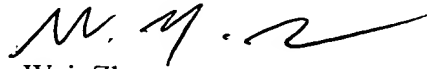
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wei Zhen whose telephone number is 571-272-3708. The examiner can normally be reached on Monday-Friday 8:00 AM - 4:00 PM.

Art Unit: 2191

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wei Zhen
Primary Examiner
Art Unit 2191

WEI Y. ZHEN
PRIMARY EXAMINER